



Paper No. 16

PARSONS HSUE & DE RUNTZ LLP  
655 MONTGOMERY STREET  
SUITE 1800  
SAN FRANCISCO CA 94111

COPY MAILED

DEC 31 2003

OFFICE OF PETITIONS

In re Application of  
Zare et al.  
Application No. 09/978,515  
Filed: October 15, 2001  
Attorney Docket No. M-11422-1P US: DECISION GRANTING PETITION  
: UNDER 37 CFR 1.137(b)  
:

This is a decision on the petition, filed July 11, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f). The Office of Petitions recently received the above-identified application to render a decision on petition. The Office sincerely apologizes for any inconvenience to petitioner.

The petition is GRANTED.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen month publication country on August 13, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and,
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The Office records indicate that the application published on April 3, 2003.

This application is being forwarded to Technology Center Art Unit 1723.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions